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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,853	11/07/2001	Daniel Gaur	PW 0249735 P12827	2382

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EXAMINER

DU, THUAN N

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,853

Applicant(s)

GAUR, DANIEL

Examiner

Thuan N. Du

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8-11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Amendment (dated 1/18/05).
2. Claims 2, 6, 7 and 12 have been cancelled. Claims 1, 3-5, 8-11 and 13-17 are presented for examination.
3. Applicant's arguments with respect to claims 1, 3-5, 8-11 and 13-17 have been considered but are moot in view of the new ground(s) of rejection.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

5. Claim 4 is objected to because of the following informalities: the phrase "computing system is powered the an AC power source" at line 3 should be -- computing system is powered by an AC power source --. Appropriate correction is required.
6. Claim 13 is objected to because of the following informalities: a period (.) to end the claim is missing. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2116

8. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 8 recites the limitation “the source of finite capacity” in line 3. There is insufficient antecedent basis for this limitation in the claim. The phrase should be written as -- the source of finite power capacity --.

Claim 8 recites the limitation “the battery” in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

10. Claims 1, 3-5, 8-11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai (U.S. Patent No. 6,665,810) and Lawitzke (U.S. Patent No. 6,870,852).

11. Regarding claim 1, Sakai teaches a system substantially as claimed comprising:

a network adapter (interface controller 1) to provide communication between a computing system and a network [col. 3, lines 38-42], said network adapter operable at more than one link speed (100 mbps and 400 mbps) [Figs. 5-7];

a network device driver (circuit 12) to control functionality of said network adapter [col. 3, lines 54 et seq.]; and

a power source to provide power to said computing system [Fig. 5; col. 3, lines 56-58], wherein the system is determined to be powered by a source of finite power capacity (battery) [col. 5, lines 48-50] and lowers the link speed of the network adapter if the system is

Art Unit: 2116

powered by the source of finite power capacity [col. 4, lines 15-29; col. 5, lines 23-55; col. 4, lines 49-54; col. 7, lines 63-65].

Sakai does not explicitly teach the system periodically executes a maintenance routine to determine the type of the connected power source.

Lawitzke teaches a system comprising a CPU for executing maintenance routine (control software) [col. 4, lines 45-48], wherein the software including monitor routine for monitoring the connected power supply, the monitoring could be done periodically [col. 4, lines 54-56]. As such, the monitor routine could be executed periodically. The connected power supply could be an AC power source [col. 5, lines 66-67] or a battery (when the AC power source fails) [col. 6, lines 1-2]. Therefore, one of ordinary skill in the art would have recognized that the type of the connected power source is determined upon monitored.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sakai to include the monitor routine for monitoring the connected power supply as taught by Lawitzke because they both teach a system which could be powered by either an AC power source or a battery. The modification would increase the reliability of the system by allowing the system to detect when the power source has been switched (based on the monitoring) and change the operation according to the connected power source.

12. Regarding claim 3, Sakai teaches that the source of finite power capacity is a battery [Fig. 5; col. 3, line 58].

13. Regarding claim 4, Sakai teaches that the network device driver causes said network adapter to switch from a lower link speed (100 mbps) to a higher link speed (400 mbps) when

Art Unit: 2116

said power source changes from the power source of finite power capacity to an AC power source [col. 4, lines 15-29; col. 4, lines 57-62; col. 6, lines 51-60].

Sakai does not explicitly teach the system periodically executes a maintenance routine to determine the type of the connected power source.

Lawitzke teaches a system comprising a CPU for executing maintenance routine (control software) [col. 4, lines 45-48], wherein the software including monitor routine for monitoring the connected power supply, the monitoring could be done periodically [col. 4, lines 54-56]. As such, the monitor routine could be executed periodically. The connected power supply could be an AC power source [col. 5, lines 66-67] or a battery (when the AC power source fails) [col. 6, lines 1-2]. Therefore, one of ordinary skill in the art would have recognized that the type of the connected power source is determined upon monitored.

14. Regarding claim 5, Sakai teaches that the source of finite power capacity is a battery [Fig. 5; col. 3, line 58].

15. Regarding claim 8, Sakai teaches that the link speed remains at lower link speed at all time if the source of finite power capacity is a battery [col. 7, lines 63-65].

16. Regarding claim 9, both Sakai and Lawitzke do not explicitly teach that the network adapter is adapted to operate at link speeds of 10 mbps, 100 mbps and 1000 mbps. However, Sakai suggests that the network adapter (interface controller 1) may be applied to other devices, connecting other different types of devices (having different communication rate) [col. 7, lines 6-18, 45-47]. Furthermore, Sakai teaches that the link speed is adjusted automatically [col. 7, lines 21-23]. Therefore, one of ordinary skill in the art would have readily recognized that the

Art Unit: 2116

network adapter taught by Sakai is capable to operate any link speed, including 10 mbps, 100 mbps and 1000 mbps.

17. Regarding claims 10, 11 and 13, since they recite method of operating of the apparatus defined in the apparatus claims, they are rejected accordingly based on the rejection of the apparatus claims.

18. Regarding claims 14-17, Sakai teaches the claimed method steps. Therefore, Sakai teaches the program code having instructions for carrying out claimed method steps.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (571) 272-3673. The

Art Unit: 2116

examiner can normally be reached on Monday and Wednesday-Friday: 9:30 AM - 8:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (571) 272-3670.

Central TC telephone number is (571) 272-2100.

The fax number for the organization is (703) 872-9306.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



Thuan N. Du
March 25, 2005